

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-30709 HHS
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, the Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Supervisor, appeared as a witness for the Department.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services ("HHS") case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a Medicaid beneficiary who has been authorized for Home Help Services.
2. The Appellant has been diagnosed with schizophrenia. (Exhibit 1, page 14, Exhibit 2)
3. The Appellant had been receiving 27 hours and 35 minutes of HHS assistance with housework, laundry, shopping, and meal preparation with a total care cost of ██████████ per month. (Exhibit 1, pages 11-12)
4. On ██████████, an Adult Services Worker ("ASW") went to the Appellant's home and completed an in-home assessment for a review of the Appellant's HHS case. (Exhibit 1, page 10)

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5. On [REDACTED], the ASW requested updated medical certification. (Exhibit 1, page 5)
6. On [REDACTED], the Appellant's doctor completed a DHS-54A Medical Needs form and did not certify that the Appellant has a medical need for assistance with personal care activities. (Exhibit 2)
7. Based on the available information the ASW concluded that the Appellant's HHS case should be terminated.
8. On [REDACTED], the Department sent the Appellant an Advance Action Notice which informed her that effective [REDACTED], her HHS case would be terminated. (Exhibit 1, pages 5-8)
9. On [REDACTED], the Appellant's request for hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, page 4)

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a physician and may be provided by individuals or by private or public agencies.

The Department appears to have focused on the recent change in HHS policy that went into effect October 1, 2011, adding a new requirement of a need for hands on assistance, functional ranking of 3 or greater, with at least one Activity of Daily Living ("ADL"). (See Interim Policy Bulletin Independent Living Services (ILS) eligibility criteria. ASB 2011-001 10-1-2011 and Adult Services Manual (ASM) 120, 11-1-2011.) However, before considering if there is a need at level 3 or greater with an ADL, the HHS policy requires certification that there is a medical need for assistance from a Medicaid enrolled medical professional.

Adult Services Manual (ASM 115, 11-1-2011), page 1 of 3 addresses the program requirements, including medical certification:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for

personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

*Adult Services Manual (ASM) 115, 11-1-2011,
Page 1 of 3 (emphasis in original)*

Prior to November 1, 2011, this requirement for medical certification was found in Adult Services Manual (ASM) 362 12-1-2007, Page 2 of 5 and Adult Services Manual (ASM 363) 9-1-2008, Pages 7-9 of 24.

In order to authorize Home Help Services, the Adult Services Manual requires verification of the medical need for assistance by a Medicaid enrolled medical professional. On ██████████, the Appellant's physician a completed DHS-54A Medical Needs form and did not certify that the Appellant had a medical need for assistance with any of the listed personal care activities. (Exhibit 2)

The Appellant disagrees with the termination and testified that she cannot take care of herself. She stated needs for assistance with activities like bathing, dressing, grooming, cooking, and cleaning. (Appellant Testimony)

In this case, the policy is clear; verification is required from a Medicaid enrolled medical professional certifying the client's medical need for services. The Appellant's doctor did not certify that the Appellant has a medical need for assistance on the DHS-54A Medical Needs form submitted to the Department on [REDACTED]. (Exhibit 2) The Department properly proposed a termination of the Appellant's Home Help Services case based on the information available at that time.

The Appellant can always reapply for the HHS program and provide verification of a medical need for assistance with personal care activities, including ADLs.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated the Appellant's HHS case based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 05/18/12

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant must appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.